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*China 1221 Inc. d/b/a China Fun*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOSE HUMBERTO QUINTANILLA,	:	
	:	08 CIV. 5595 (PKC)
Plaintiff,	:	
-against-	:	<b><u>ANSWER</u></b>
	:	
CHINA 1221 INC. d/b/a CHINA FUN,	:	
	:	
Defendant.	:	
-----	X	

Defendant CHINA 1221 INC. d/b/a CHINA FUN, by its attorneys, The Law Firm of  
Hugh H. Mo, P.C., as and for its Answer to the plaintiff's Complaint, states as follows:

**(INTRODUCTION)**

1. Denies the allegations contained in paragraph "1" and refers all questions of law  
to a determination by this Court.

2. Denies the allegations contained in paragraph "2" and refers all questions of law  
to a determination by this Court.

**(JURISDICTION AND VENUE)**

3. Denies the allegations contained in paragraph "3" and refers all questions of law  
to a determination by this Court.

4. Denies the allegations contained in paragraph "4" and refers all questions of law  
to a determination by this Court.

**(PARTIES)**

5. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “5”.

6. Admits the allegations contained in paragraph “6”.

7. Denies the allegations contained in paragraph “7”, except admits that plaintiff was employed by defendant from about 2001 to about 2002, and from about 2005 to about April 2008.

8. Denies the allegations contained in paragraph “8” and refers all questions of law to a determination by this Court.

9. Denies the allegations contained in paragraph “9” and refers all questions of law to a determination by this Court.

10. Denies the allegations contained in paragraph “10” and refers all questions of law to a determination by this Court.

11. Denies the allegations contained in paragraph “11” and refers all questions of law to a determination by this Court.

12. Denies the allegations contained in paragraph “12” and refers all questions of law to a determination by this Court.

13. Denies the allegations contained in paragraph “13” and refers all questions of law to a determination by this Court.

**(STATEMENT OF FACTS)**

14. Admits the allegations contained in paragraph “14”.

15. Denies the allegations contained in paragraph "15", except admits that plaintiff worked for defendant as a cook from about 2001 to about 2002, and as a dishwasher and then a cook from about 2005 to about April 2008.

16. Denies the allegations contained in paragraph "16".

17. Denies the allegations contained in paragraph "17" and refers all questions of law to a determination by this Court.

18. Denies the allegations contained in paragraph "18" and refers all questions of law to a determination by this Court.

19. Denies the allegations contained in paragraph "19" and refers all questions of law to a determination by this Court.

20. Denies the allegations contained in paragraph "20" and refers all questions of law to a determination by this Court.

**(STATEMENT OF CLAIM)**  
**(COUNT I)**  
**(VIOLATION OF THE FAIR LABOR STANDARDS ACT)**

21. As and for an answer to paragraph "21", defendant realleges and incorporates by reference all of its answers and objections to the allegations in all preceding paragraphs as if fully set forth herein.

22. Objects to the form of plaintiff's allegations contained in paragraph "22" with respect to the general reference to "all relevant times," an undefined term. Without waiving said objection, defendant denies the allegations contained in paragraph "22" and refers all questions of law to a determination by this Court.

23. Objects to the form of plaintiff's allegations contained in paragraph "23" with respect to the general reference to "all relevant times," an undefined term. Without waiving said

objection, defendant denies the allegations contained in paragraph “23” and refers all questions of law to a determination by this Court.

24. Objects to the form of plaintiff’s allegations contained in paragraph “24” with respect to the general reference to “all relevant times,” an undefined term. Without waiving said objection, defendant denies the allegations contained in paragraph “24” and refers all questions of law to a determination by this Court.

25. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “25”, and refers all questions of law to a determination by this Court.

26. Denies the allegations contained in paragraph “26” and refers all questions of law to a determination by this Court.

27. Denies the allegations contained in paragraph “27” and refers all questions of law to a determination by this Court.

28. Denies the allegations contained in paragraph “28” and refers all questions of law to a determination by this Court.

29. Denies the allegations contained in paragraph “29” and refers all questions of law to a determination by this Court.

30. Denies the allegations contained in paragraph “30” and refers all questions of law to a determination by this Court.

31. Objects to the form of plaintiff’s compound allegations contained in paragraph “31” for failure to comply with Fed. R. Civ. Proc. Rule 8(d)(1) and Rule 10(b). Without waiving said objection, defendant denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “31”.

32. Denies the allegations contained in paragraph "32" and refers all questions of law to a determination by this Court.

33. Denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "33".

34. Denies the allegations contained in paragraph "34" and refers all questions of law to a determination by this Court.

35. Denies the allegations contained in paragraph "35" and refers all questions of law to a determination by this Court.

36. Denies the allegations contained in paragraph "36".

37. Denies the allegations contained in paragraph "37" and refers all questions of law to a determination by this Court.

**(COUNT II)**  
**(VIOLATION OF THE NEW YORK LABOR LAW)**

38. As and for an answer to paragraph "38", defendant realleges and incorporates by reference all of its answers and objections to the allegations in all preceding paragraphs as if fully set forth herein.

39. Denies the allegations contained in paragraph "39" and refers all questions of law to a determination by this Court.

40. Denies the allegations contained in paragraph "40".

41. Denies the allegations contained in paragraph "41" and refers all questions of law to a determination by this Court.

42. Denies the allegations contained in paragraph "42".

43. Denies the allegations contained in paragraph "43" and refers all questions of law to a determination by this Court.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

44. Plaintiff's Complaint fails to state a cause of action upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

45. The Court does not have subject matter jurisdiction over the causes of action set forth in plaintiff's Complaint.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

46. Plaintiff's Complaint fails to state the bases of the causes of action contained therein with sufficient particularity and specificity.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

47. Plaintiff's claims are the proximate result of the acts of third parties outside the knowledge or control of this answering defendant.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

48. Plaintiff has failed to join all necessary parties for the proper adjudication of this action.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

49. Plaintiff's claims are barred by the appropriate Statute(s) of Limitations.

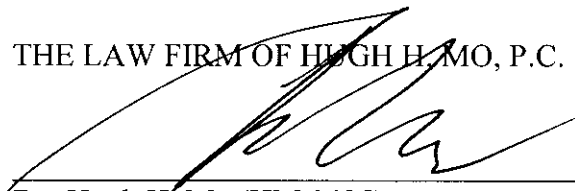
**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

50. Plaintiff fails to state a claim for attorneys' fees or costs upon which relief can be granted.

**WHEREFORE** Defendant CHINA 1221 INC. d/b/a CHINA FUN, respectfully prays that this Court dismiss plaintiff's Complaint against it with prejudice, and award it reasonable attorneys' fees, costs and disbursements together with such other and further relief as this Court deems necessary and just.

Dated: New York, New York  
July 23, 2008

THE LAW FIRM OF HUGH H. MO, P.C.



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